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### REMARKS

The Applicant wishes to raise the Examiner's attention to some new items of prior art, specifically: U.S. Patent No. 4,241,914 to Bushnell (Bushnell); and U.S. Patent No. 5,941,802 to Kiser (Kiser). The Applicant comments on these patents later in the remarks and wishes the Examiner to cite them.

Applicant wishes to cancel Claims 1-3 and newly present Claims 4-23 in response to Examiner's office action dated January 13, 2005. Applicant respectfully requests the Examiner to apply favorable reconsideration of this application as now amended.

In the Office Action, the Examiner rejected claim 1 under 35 U.S.C. 102(b) as being unpatentable over U.S. Patent No. 5,190,512 to Curran (Curran), and rejected claims 2-3 under 35 U.S.C. 103(a) as being unpatentable over Curran. The Examiner also raised other items of prior art that were not relied upon for rejection of the claims in U.S. Patent No. 5,362,295 to Nurge (Nurge); U.S. Patent No. 6,648,804 to Chen (Chen), and U.S. Patent No. 1,952,750 to Gailey (Gailey).

Applicant has studied Curran, Nurge, Chen, and Gailey and wishes to make the following general comments with respect to these items of prior art:

#### Applicant's comments on Curran:

- 1) The Examiner states that: "Claim 1 is rejected as being anticipated by Curran. Curran discloses a device comprising: a chin-up device (10) elastomeric elements (14) and a sling (16)."

Applicant respectfully disagrees with the Examiner when he claims that Curran discloses a chin-up device. Curran's device is not designed for chin-ups and he makes no reference to this exercise in either the description or the drawings. The Applicant submits that the chin-up is a specialized exercise usually involving a secure and stationary bar apparatus. There is nothing in Curran that teaches or suggests securing the bar in his invention; in fact the essence of his invention is an unsecured bar that enables his desired exercise applications (Column 4, Lines 24-28).

- 2) Curran's device is very different to my device as his is attached to the users body via "a harness secured to the user's waist" (Column 1, line 60). The body harness consisting of a "belt 18 encircling the waist and straps 20a, 20b encircling the crotch" (Column 2, Lines 37-

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40). This is in contrast to my device that is not attached to the user's body, but which stays positioned via the upward force supplied by the elastics. This novel non-attached sling feature does not require fitting to the body and enables the user to engage and completely disengage from the device without having to let go of the pull-up equipment.

- 3) Curran's device focuses on the waist, arms and shoulders (Column 1, Lines 44-52) and as such the exercises it enables and anticipates are dramatically different from the exercises that focus on the upper back, chest and arms of my device. The main movements and thereby the activated musculature involved in these two differing sets of exercises are completely different.
- 4) Curran's device is designed with the intention of providing resistive forces on the body. In contrast, my device does not provide resistance to make exercises harder, but it provides assistance to make the exercises easier.

With respect to the other items of prior art the Examiner made of record but did not rely upon for claims rejection, I have the following comments:

Applicant's comments on Nurge Fig. 6

- 1) As with Curran, above, Nurge's device comprises a belt that is fitted and secured around the waist of the user. This arrangement is not ideal for the chin-up or dip exercise because the user must pre-attach himself/herself to the device prior to performing the exercise as well as remove himself/herself from the device after completing the exercise.
- 2) Exercise assistance from the waist is not ideal for the pull-up exercise because it can tend to pull you forward from the natural hanging position as well as lift uncomfortably against the users trunk as a result of the upward forces. My pull-up device assists from the lower leg thus enabling the user to adopt a more natural pull-up position and feel.

Applicant's comments on Chen Fig. 2

- 1) I believe Chen's central bar 60 as disclosed is flexible and therefore not suitable for pull-up exercises. While Chen states "a resilient or flexible and longitudinal member 60" on one account (Column 3, Line 28); he also states in other accounts that the central bar is flexible (Column 1, Line 32; Column 3, Lines 48-49; Column 4 Line 44; Column 5, Line 8).
- 2) Chen's device is designed for resistance exercises and not for the assistance of exercises.

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- 3) Chen's foot supports with attachment straps are meant to support or be worn on the foot. In contrast, the sling of my device is meant to adaptably wrap around and thus engage the user's lower leg.

Applicant's comments on Gailey Fig. 1.

- 1) Gailey describes a device with handles and a rigid foot plate.
- 2) Gailey's device is designed for supplying additional resistance to exercises not for aiding the ease of an exercise.

To further clarify the Applicant's device the Applicant submits new claims 4-23. These claims as presently submitted describe a device not taught by Curran, Nurge, Chen, or Gailey. For instance, new independent claim 4 recites a chin/pull-up exercise assist apparatus comprising: at least one extensible elastomeric component; first and second ends, each of the first and second ends being releasably attachable to any user selected portion of an overhead support structure; and a non-rigid, frontal lower leg engagement strap coupled to the extensible elastomeric component and substantially centrally positioned between the first and second ends; wherein the elastomeric component provides an elastic resistance to create an upward force during performance of a chin/pull-up to offset a portion of an exerciser's body weight and thereby assist the exerciser in performing the chin/pull-up. The applicant submits this claim presents a novel chin/pull-up exercise assist. The non-rigid, frontal lower leg strap is not secured in any way to the user, but is held in place purely by the upward force supplied by the at least one extensible elastomeric component. This technique provides solid and comfortable support while enabling assisted exercises for individuals unencumbered by devices attached to their body. Additionally, this apparatus enables chins and pull-ups on support structures that are far lower than the chin/pull-up assist solutions that employ footholds.

Both the Kiser and Bushnell disclosures describe devices that engage the foot and thus force the exerciser to perform the exercise in a fairly straight body position, i.e., standing on the device (and a fairly awkward position as illustrated in Kiser). While this exercise position is sometimes used, it is not the commonly advised position to use to perform the exercise with proper form. However, the "bent knee" position is commonly recommended as proper form and my disclosure provides assistance for the exerciser while utilizing this form with little or no adaptation from it. The non-rigid lower leg engagement strap of my application is used to wrap around the lower portion of the leg (just below the knee) and thereby offer an adaptive and more secure and comfortable engagement with the lower leg (not the foot). In contrast the foot platform of Kiser is to provide a stable and secure foot platform only, as this type of device would be uncomfortable and non-securable against the knee region of the leg.

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New independent claims 5-12 are directed towards making the device adaptable for various user needs with respect to suspension length, assistance strength, configuration, etc.

Regarding the new independent Claim 13 and dependent claims 14-21, the Applicant submits these claims are patentable over the prior art as these combine the device of Claim 4 with the chinning support structure.

With regards to new independent claim 22, Applicant relies on the device previously described in a submitted patent application (and priority reference) to form the basis of the frontal lower leg engagement strap.

In view of the foregoing, the Applicant now believes that the present application is now in condition for allowance. An early and favorable action is respectfully solicited.

Respectfully submitted,

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